

Date: March 9, 2007

Attorney Docket No.: 101769-234 tesa 1615-WCG
9500Heta

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Marc HUSEMANN, et al.
Serial No. : 10/687,494
Filed : October 16, 2003
For : PRESSURE-SENSITIVELY ADHESIVE MOULDINGS
Art Unit : 1713
Examiner : Bernard Lipman

March 9, 2007

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANTS' BRIEF ON APPEAL PURSUANT TO 37 CFR § 41.37

Sir:

This is an appeal from the final rejection of an Examiner of Art Unit 1713.

1. REAL PARTY IN INTEREST

The instant application is owned by tesa AG, record owner hereof.

2. RELATED APPEALS AND INTERFERENCES

The undersigned is not aware of any appeals, interferences, reexaminations, infringement actions or the like in any related applications.

3. STATUS OF CLAIMS

The claims pending in this application are claims 1-5, 7 and 8; all of said claims are finally rejected and all of said claims are on appeal.

4. STATUS OF AMENDMENTS

An Amendment Under Rule 114 was filed January 17, 2006 and February 15, 2006 (by facsimile) and that amendment was entered. A subsequent Amendment under Rule 116 was filed on March 8, 2007 (the day before the filing of this Brief), to correct a spelling error in the claims ("retro" corrected to --roto--). It is assumed that this Amendment will be entered as it relates to a formal matter only.

5. SUMMARY OF THE CLAIMED SUBJECT MATTER

Independent claim 1 relates to a novel injection moulded (page 17, line 6), compression moulded (page 17, line 18), blow moulded (page 17, line 24) or roto moulded (page 17, line 28) product comprised of one or more block copolymers based on polyacrylate and having inherent pressure-sensitive adhesion properties (page 2, lines 14-17, 27-28; page 17, lines 6-15).

6. GROUNDS FOR REJECTION TO BE REVIEWED ON APPEAL

The grounds for rejection to be reviewed on appeal are

The rejection of claims 1-5, 7 and 8 under 35 USC 102(b) as anticipated by, or in the alternative, under 35 U.S.C. 103(a) as obvious over Everaerts et al (WO 00/39233) and in view of Remmers et al (U.S. Patent 6,430,898).

7. ARGUMENTS

The Examiner contends that the product that Everaerts forms by placing an adhesive between two substrates to form a layer anticipates or suggests Appellants' product even though not formed by the injection molding etc. methods recited in Appellants' claims. This because, according to the Examiner, Appellants' claims do not specify particular forms or dimensions, and therefore read on the product of other forms of "molding". Alternatively, the Examiner turns to the "bricks" formed by Remmers at col. 3, lines 40-45.

Appellants' claims are directed to specific products, namely injection molded, compression molded, blow molded or roto molded products. Those skilled in the art understand that, because of the nature of such molds and the processes by which products are made in such molds, the resulting products can have specific shapes not obtainable by simple compression between two substrates (as in Everaerts) or simply pouring into an open mold (as in Remmers). Injection molding, for example, generally involves a mold cavity having specific contours, shapes, indentations, projections, etc. into which the substance to be molded is injected, usually under elevated temperature and pressure, and then cured to form a very specific shape. Those skilled in the art understand that such products are distinctly different than those of Everaerts and Remmers because the resulting shaped features cannot be produced by Everaerts or Remmers.

Referring again to injection molding as an example, very fine contours and projections can be accurately produced by forcing the substance to be molded into the corresponding indentations etc. under high pressure. Therefore products can be

produced which can be accurately matched to complementary shaped portions of other articles, such as the molded products used to seal windshields into place in automobiles, or the rubber seals used on automobile doors, trunks and the like. Appellants' products are therefore generally characterized by very fine and specific details that cannot be obtained in the Everaerts/Remmers products.

The injection molded, compression molded, blow molded and roto molded products recited in Appellants' claims are therefore neither anticipated nor suggested by the "layer" produced by Everaerts or the "brick" produced by Remmers.

The rejection of claims 1-5, 7 and 8 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Everaerts et al, WO 00/39233 and in view of Remmers et al, U.S. 6,430,898 should now be REVERSED.

8. CONCLUSION

Wherefore it is submitted that the final rejection is in error and should be **REVERSED**.

AUTHORIZATION TO CHARGE FEE TO DEPOSIT ACCOUNT

Appellant is:

[] a small entity

[X] other than a small entity

It is requested that the fee for the filing of the Brief on Appeal be charged to the undersigned's Deposit Account No. 14-1263.

Please charge:

[] \$ 250.00 for small entity

[X] **\$500.00 for other than small entity.**

CONDITIONAL PETITION FOR EXTENSION OF TIME

If any extension of time for this response is required, Appellants request that this be considered a petition therefor. Please charge the required Petition fee to Deposit Account No. 14-1263.

ADDITIONAL FEE

Please charge any insufficiency of fees, or credit any excess to our Deposit Account No. 14-1263.

Respectfully submitted,
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9. CLAIMS APPENDIX

The claims are appeal, assuming entry of the Rule 116 Amendment filed on March 8, 2007, read as follows:

Claim 1. An injection moulded, compression moulded, blow moulded or roto moulded product comprising one or more block copolymers based on polyacrylate or mixtures comprising such block copolymers, and having inherent pressure-sensitive adhesion properties.

Claim 2. The injection moulded, compression moulded, blow moulded or roto moulded product of Claim 1, wherein said product has a sufficiently high pressure-sensitive adhesion to hold its own weight for at least 30 minutes on at least one material selected from the group consisting of polyethylene, ABS (acrylonitrile-butadiene-styrene copolymers) and/or polystyrene when having been pressed onto a sample surface of said material with an applied pressure of 19.6 N/cm^2 .

Claim 3. The injection moulded, compression moulded, blow moulded or roto moulded product of Claim 1, wherein the block copolymers have a sequence of at least one polymer block or copolymer block P_H having a glass transition temperature of not more than 10°C and of at least one polymer block or copolymer block P_S having a glass transition temperature of at least 20°C .

Claim 4. The injection moulded, compression moulded, blow moulded or roto moulded product of Claim 3, wherein the block copolymers comprise at least one triblock structure of the form $P_S-P_H-P_S$ and/or $P_H-P_S-P_H$.

Claim 5. The injection moulded, compression moulded, blow moulded or roto moulded product of Claim 1, wherein the block copolymers comprise at least one

functional group which behaves inertly in a free-radical polymerization reaction and which is capable of promoting a crosslinking reaction of the polymers.

Claim 7. A method for single-sided or double-sided adhesive bonding of substrates, which comprises bonding said substrates with the injection moulded, compression moulded, blow moulded or roto moulded product of Claim 1, 2, 3 or 4.

Claim 8. A sealing material comprising an injection moulded, compression moulded, blow moulded or roto moulded product of claim 1.

10. EVIDENCE APPENDIX

No evidence under §§ 1.130, 1.131, or 1.132 has been submitted.

11. RELATED PROCEEDINGS APPENDIX

There have been no decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) of 37 CFR 41.37